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AN ACT
RELATING TO TAXATION; ADDING A REPORTING REQUIREMENT;
EXTENDING THE DATE FOR ELIGIBILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9G-1 NMSA 1978 (being Laws 2004,
Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING
HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may
apply for, and the taxation and revenue department may allow,
a tax credit for each new high-wage economic-based job. The
credit provided in this section may be referred to as the
"high-wage jobs tax credit".

B. The high-wage jobs tax credit may be claimed
and allowed in an amount equal to ten percent of the wages and
benefits distributed to an eligible employee in a new
high-wage economic-based job, but shall not exceed twelve
thousand dollars (\$12,000).

C. The high-wage jobs tax credit may be claimed by
an eligible employer for each new high-wage economic-based job
performed for the year in which the new high-wage
economic-based job is created and for the three following
qualifying periods.

D. A new high-wage economic-based job shall not be

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1 eligible for a credit pursuant to this section unless the
2 eligible employer's total number of employees with new
3 high-wage economic-based jobs on the last day of the
4 qualifying period at the location at which the job is
5 performed or based is at least one more than the number on
6 the day prior to the date the job was created.

7 E. With respect to each new high-wage
8 economic-based job for which an eligible employer seeks the
9 high-wage jobs tax credit, the employer shall certify:

10 (1) the amount of wages paid to each
11 eligible employee in a new high-wage economic-based job
12 during each qualifying period;

13 (2) the number of weeks the position was
14 occupied during the qualifying period;

15 (3) whether the new high-wage economic-based
16 job was in a municipality with a population of forty thousand
17 or more or with a population of less than forty thousand
18 according to the most recent federal decennial census and
19 whether the job was in the unincorporated area of a county;
20 and

21 (4) the total number of employees employed
22 by the employer at the job location on the day prior to the
23 qualifying period and on the last day of the qualifying
24 period.

25 F. To receive a high-wage jobs tax credit with

1 respect to any qualifying period, an eligible employer shall
2 apply to the taxation and revenue department on forms and in
3 the manner prescribed by the department. The application
4 shall include a certification made pursuant to Subsection E
5 of this section.

6 G. The credit provided in this section may be
7 deducted from the modified combined tax liability of a
8 taxpayer. If the credit exceeds the modified combined tax
9 liability of the taxpayer, the excess shall be refunded to
10 the taxpayer.

11 H. The economic development department shall
12 report to the appropriate interim legislative committee
13 before November 1 of each year the cost of this tax credit to
14 the state and its impact on company recruitment and job
15 creation.

16 I. As used in this section:

17 (1) "benefits" means any employee benefit
18 plan as defined in Title 1, Section 3 of the federal Employee
19 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

20 (2) "eligible employee" means an individual
21 who is employed by an eligible employer and who is a resident
22 of New Mexico; "eligible employee" does not include an
23 individual who:

24 (a) bears any of the relationships
25 described in Paragraphs (1) through (8) of 26 U.S.C. Section

1 152(a) to the employer or, if the employer is a corporation,
2 to an individual who owns, directly or indirectly, more than
3 fifty percent in value of the outstanding stock of the
4 corporation or, if the employer is an entity other than a
5 corporation, to an individual who owns, directly or
6 indirectly, more than fifty percent of the capital and
7 profits interest in the entity;

8 (b) if the employer is an estate or
9 trust, is a grantor, beneficiary or fiduciary of the estate
10 or trust or is an individual who bears any of the
11 relationships described in Paragraphs (1) through (8) of 26
12 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary
13 of the estate or trust;

14 (c) is a dependent, as that term is
15 described in 26 U.S.C. Section 152(a)(9), of the employer or,
16 if the taxpayer is a corporation, of an individual who owns,
17 directly or indirectly, more than fifty percent in value of
18 the outstanding stock of the corporation or, if the employer
19 is an entity other than a corporation, of an individual who
20 owns, directly or indirectly, more than fifty percent of the
21 capital and profits interest in the entity or, if the
22 employer is an estate or trust, of a grantor, beneficiary or
23 fiduciary of the estate or trust; or

24 (d) is working or has worked as an
25 employee or as an independent contractor for an entity that

1 directly or indirectly owns stock in a corporation of the
2 eligible employer or other interest of the eligible employer
3 that represents fifty percent or more of the total voting
4 power of that entity or has a value equal to fifty percent or
5 more of the capital and profits interest in the entity;

6 (3) "eligible employer" means an employer
7 that:

8 (a) made more than fifty percent of its
9 sales to persons outside New Mexico during the most recent
10 twelve months of the employer's modified combined tax
11 liability reporting periods ending prior to claiming a
12 high-wage jobs tax credit; or

13 (b) is eligible for development
14 training program assistance pursuant to Section 21-19-7 NMSA
15 1978;

16 (4) "modified combined tax liability" means
17 the total liability for the reporting period for the gross
18 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
19 any tax collected at the same time and in the same manner as
20 the gross receipts tax, such as the compensating tax, the
21 withholding tax, the interstate telecommunications gross
22 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
23 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
24 minus the amount of any credit other than the high-wage jobs
25 tax credit applied against any or all of these taxes or

1 surcharges; but "modified combined tax liability" excludes
2 all amounts collected with respect to local option gross
3 receipts taxes;

4 (5) "new high-wage economic-based job" means
5 a job created by an eligible employer on or after
6 July 1, 2004 and prior to July 1, 2015 that is occupied for
7 at least forty-eight weeks of a qualifying period by an
8 eligible employee who is paid wages calculated for the
9 qualifying period to be at least:

10 (a) forty thousand dollars (\$40,000) if
11 the job is performed or based in a municipality with a
12 population of forty thousand or more according to the most
13 recent federal decennial census; and

14 (b) twenty-eight thousand dollars
15 (\$28,000) if the job is performed or based in a municipality
16 with a population of less than forty thousand according to the
17 most recent federal decennial census or in the unincorporated
18 area of a county;

19 (6) "qualifying period" means the period of
20 twelve months beginning on the day an eligible employee begins
21 working in a new high-wage economic-based job or the period of
22 twelve months beginning on the anniversary of the day an
23 eligible employee began working in a new high-wage
24 economic-based job; and

25 (7) "wages" means wages as defined in

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Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."